

## DAMAGE DONE BY SMELTER SMOKE.

Judge Marshall Hands Down Opinion Saying It Reduces Value of Property One-Half.

### CASE OF MCLEERY VS UTAH CON

Court Holds That Plaintiff Should be Awarded Full Value for Damage to Crops.

The first opinion to be handed down by the federal court on the damage to crops by smelter smoke in Salt Lake City, was filed today. It does not make it appear that the complaints of the farmers are imaginary, and states that in the opinion of the court the presence of the smelters injures the value of farms in that affected district about one-half. The individual damage to be paid each farmer for the loss to crops consequent upon the presence of smelter smoke is appraised by Judge Marshall at what he considers its full value, but in the suit in which the opinion is handed down, he does not allow full value, but fixed a proportion of the value, which, in his opinion, represents the damage done by the defendant smelter in proportion to the entire damage done by all the smelters.

The case is that of McLeery et al against the Utah Consolidated smelter. It was originally filed in the federal court, and then being tried was referred to a master in chancery with instructions to find the actual amount of damage done.

The master filed in a report covering the damage for 1902, 1903 and 1904, assessing its full value against the Highland Roy smelter, which was named as defendant.

To this Judge Marshall took exception, and stated that it was an error, quoting authorities and precedents to show it was "hard logic and bad law" to hold one wrong doer is not responsible for the total result of the actions of several independent wrong doers. He then spoke of the inherent difficulty of separating effects from a number of life causes operating at the same time, and stated that in this case there was no way to accurately compute the damage done by each smelter to each of the farms.

He, however, considered it incumbent upon him to arbitrarily reach a conclusion, and he accordingly modified the figures of the master, assessing the defendant company with the amount he considered its proportion. He did this on each of a long list of articles damaged on the McLeery and other farms involved in the suit.

Judge Marshall considers the length of time the smelters are liable to run, and states that they are bound to continue sometime from the exhaustion of their mines. The chance of their shutting the smoke nuisance by invention and discovery may be in the future, but it is extremely probable, and the chance of quitting on account of an injunction gained by the farmers he considers possible.

S. H. Lewis, who acted as master in chancery in the case is granted a fee of \$500 charged against the defendant.

### MEASHER OBSEQUES.

Newspaper Man Laid to Rest With Impressive Ceremony.

A number of newspaper men and other friends gathered about the bier of the late Richard Measher yesterday afternoon in Evans' undertaking parlors, to pay their final respects to a member of their fraternity, who for the past year had been on the Herald staff, and who died on Friday morning. Rev. P. A. Simpkins officiated at the service and gave a short talk in which he paid a splendid tribute to the newspaper fraternity and spoke of the faithful work of the deceased, who had been in the newspaper business for 20 years. He laid particular stress upon the spirit which prompted the representatives of the press to give the deceased the same care and attention as he would have given to a brother, deprived as he was of the loving tenderness and care of relatives.

A quartet, under the direction of Miss Nora Gibson, sang "Lead Kindly Light," at the opening of the service, and "Near, my God, to Thee," at the conclusion. There was quite a profusion of floral offerings on the casket. The pallbearers were William Ideheart, A. G. McKenzie, A. E. Phillips, E. H. Holden, C. B. Leigh and W. H. Brant. The interment was at Mt. Olivet cemetery.

The deceased was in his thirtieth year, and had just returned from a visit to Kansas City, where he was formerly engaged in the newspaper business, when he became much worse and was taken to the hospital for treatment, where he died. He has a brother in Kansas City who was unable to attend the funeral owing to sickness in his own family.

### INFORMATION WANTED.

Nelson Jones of Plattsmouth, Cass county, Neb., would like to learn the whereabouts of Elders Martin Christensen, Jr., and Henry V. Valentine, whom he became acquainted with while they were laboring as missionaries in that section.

### THE FIREMEN'S FRACAS.

Chief Bywater Says He Will Investigate Matter Deliberately.

The trouble in the fire department which occurred Friday night between Capt. Stab on one side and Firemen Charles and Fred Gulbransen and Andrew Ekman on the other side, has not as yet been adjudicated by Chief W. H. Bywater.

Complaints have been lodged against Stab by Charles Gulbransen, and against Gulbransen by Stab. The charges are in writing and are now in possession of Chief Bywater. They will be heard later.

This morning the "News" asked Chief Bywater when he expected to settle the trouble. His statement follows: "I propose to deliberately and carefully approach this matter. When it is investigated it will be in the interest of the tax payers of this city and the harmony of this department. As there is no politics in this department, each and every man concerned in this trouble must stand upon his own individuality. Consequently, I am going to take plenty of time to carefully investigate the difficulty in the interest of the tax payers of this city and the harmony of the department."

"I have already received a statement from a citizen, not a member of this department, who was present during part of the disruption. I also have the

name of another reliable citizen who has left the city and will not return until tomorrow, from whom I expect to get a number of details concerning the matter. While I very much regret this untimely occurrence in the department, the people of Salt Lake and the taxpayers of this city may rest assured that the trouble will be settled in a manner conducive to the public good."

### A MALICIOUS REPORT.

Tribune Deliberately Misrepresents Lecture of "News" City Editor.

That the Tribune's purpose is to misrepresent everything susceptible of misrepresentation seems to be an established fact. Evidences in confirmation of this conclusion multiply with each succeeding publication of the libelous sheet. Last night Mr. John E. Hansen, city editor of the Deseret News, delivered a lecture in the Eleventh ward. His subject was "The Man Without a Country." It was treated from the broadest possible view of patriotism and loyalty. During the course of his remarks the speaker pointed out the moral and political delinquencies of Aaron Burr and commented at length upon the tragic career of Philip Nolan, Edward Everett Hale's principal character, in his most fascinating story of "The Man Without a Country." In concluding, the lecturer directed attention to the moral to be drawn from the misdeeds of these two personages, one dramatically real, and the other more or less a creature of fiction, and said: "In the ending of their lives is a lesson of most impressive nature. The Aaron Burr and Philip Nolan of our day might read their fate with profit to themselves and the public."

A little later in his address Mr. Hansen said: "In these times of misrepresentation and general charge-making it is well not to become frightened at the cries of those who yell themselves hoarse with the war-shriek of 'Hearach, Hiearach!' In most cases it will be found that the speaker is a liar, but all the good ship Zion is a pretty good craft to stick to. The ports into which it carries you will be ports of safety. Its harbors are the harbors of salvation. The only question is, will we all prove ourselves good sailors and remain on board to the end of the voyage."

This simple statement (and the above is a literal quotation without the omission or addition of a single word) was reported into a sensational headline "Threat Made Against Young Men," City Editor of the Deseret News Promulgates Sentence of 'Hiearach, Hiearach' From the Church Have Alarmed Leaders. Men Who Cry Hiearach are to Share the Fate of Philip Nolan."

Following this display the sheet announced in accents of mingled yell and shriek: "The Church is beginning to wake up to the fact that there are young men in the Church who are daring to cry out 'Hiearach, Hiearach! Hiearach!' This is so serious a thing that the church deems it wise to send the city editor of the Church organ out to cry ven-gence."

Then follows a list of rot about "comparing Joseph E. Smith with the United States, the United States ship on which Nolan was placed with the Church and that those young men in this Church who are talking against those who are manning the good ship 'Zion,' and who are sailing on with it, those young men in the church who are crying 'Hiearach! Hiearach! Hiearach!'—such young men will share the fate of Philip Nolan and Aaron Burr."

As already stated, the speaker did not say that or anything like it. All he said on the subject is given absolutely verbatim in this article. The whole congregation knows that. The editors of the Tribune staff ever indulged in the libelous story that appeared there is no telling how many of them were misled on the way to the West Temple sanctuary.

A point of interest, and one that not a few of those present at last night's meeting would like light upon, is this: Why should the editors of the Tribune take the reference to Burr and Nolan as being so personal? Surely no man on the Tribune staff ever indulged in the libelous story that appeared there is no telling how many of them were misled on the way to the West Temple sanctuary.

Why, their personal virtue is known to be something alarming. And as to the latter is he not a hero? Some of them have never exhibited an atom of the penitence that he displayed.

### AMUSEMENTS.

Another opening run of the new theatrical season will be fired at the Grand tonight. The popular play house will be opened with "The New York Girl" as the attraction, and patrons who attend can prepare themselves for a list of surprises in the changes that have been made on the interior of the place during the past three weeks. The same bill will run the remainder of the week.

The second week of the Lyric Theatre opened Saturday night before another crowded house. A special Labor day matinee is going on this afternoon, and Saturday's bill will also be repeated tonight. The "California Girls Extravaganza" company furnishes the attraction, and the bill is full of novelties, the most striking of which are the five electric swings, musical goblets, the flower ballet, the dance of the hours, the girls of the U. S. A., and the big silver march. Those who were most applauded were the whirl wind dancers Evelyn Fennell, the German comedienne and Helen Russell.

Work on the new Orpheum theater on State street is being steadily pushed, and the opening will probably occur within two months.

At the theater Prof. McCellan is rehearsing principals and chorus, at odd hours, both day and night, and rushing operations rapidly for the opening of the house with "The Jolly Musketier" on the afternoon and evening of the 16th.

### WARD ENTERTAINMENTS

Reuben E. Baxter of the Tenth ward who leaves on a southern mission on the 6th inst., was given an interesting and largely attended reception in the ward meetinghouse Friday night. Among the participants in the program were Miss Cecelia Sharp, Joseph Pell, Miss Millie Williams, Miss Tillie Perks, the Misses Symons, Albert Brady and Miss Maud Caldwell. The voluntary collection, taken at the door, was generous.

### GREEK KILLED.

Was Out Hunting When His Shotgun Was Accidentally Discharged.

Leonidas Kontis, a Greek brakeman on a construction train working at Grassy, Utah, accidentally shot himself while hunting rabbits Sunday, and died while being taken to Price. His body was brought to Salt Lake this morning for interment.

### BACK FROM SEA GIRT.

Captains Tobias and Hanning Had Plenty to Do at R's Tournament.

Captains Tobias and Hanning returned yesterday from Sea Girt, N. J. While they did not go there to shoot, they were given plenty to do, as on reporting to the general officer commanding the range contests, they were both made range sergeants, and had a rather strenuous time of it. There were teams aggregating 1,000 men, and the New York marksmen got away with the laurels. The best man on the range was the man who made the best shot, whether he was a private or a commissioned officer. The Utah men were well received, and greatly enjoyed their experience. It was something that will last them a lifetime. They left New York Wednesday morning, and arrived in Salt Lake yesterday morning, but no time was lost in returning. However, the officers wished they could have had a chance to rest a bit before reporting at once for camp duty this day.

Captain Hanning is enthusiastic in his opinions as to what Utah can do next year in the rifle shoot. He claims that if next year the team can have two weeks of practice before the meet, he is confident that he can bring home the trophies. The best shooting was not much over the standard already set by Utah marksmen already. It is known that the weather is strongly back of the movement to send a team next year, and he has already announced that such a team will be selected, and sent to represent the state.

### TOMORROW'S ORGAN RECITAL.

Following is the program for tomorrow's organ recital at the Tabernacle: Andante from Fifth Symphony.....

.....Beethoven  
A Rosary.....Nevin  
Prophecy.....Lamotte  
Breaks From the Church Have Alarmed Leaders. Men Who Cry Hiearach are to Share the Fate of Philip Nolan.....Wagner

### PRETTY CARNIVAL STORY.

Old Scottish Folk Lore Furnishes Tale To be Acted Out at Portland.

Portland.—When it was determined to hold a three days' carnival at the Lewis and Clark exposition, September 7, 8 and 9, to be called "The Festivities of King Nigero," many persons began to inquire as to the origin of the name Nigero. "Spell Oregon backwards," said a wise one, "and you may get some light upon the subject."

That explains the name, but the story which is to be worked out by the carnival goes on to say that it is a piece of ancient folklore, a pretty romance of the olden time.

The story of the carnival is based upon an old bit of Scottish folk-lore, which tells of a young man, who was a rich and powerful king, as well as a handsome and a beautiful prince. The king had sought long and earnestly for a maiden whose beauty would be great enough to grace the throne. Many years of search had passed, and the king was growing old and impatient. One day he was told that a beautiful girl had been found in a remote part of the world. The king at once set out on a journey to find her. He traveled for many days, and at last he found the girl. She was indeed beautiful, and the king was overjoyed. He took her to his palace, and she became his queen. The king and queen lived happily ever after.

### LATE LOCALS.

Mr. P. A. Cooper of West Jordan announces the engagement of his daughter Clara to William E. Pack, marriage to take place this month.

Mrs. John T. Dick of Tazewell announces the engagement of his daughter Annie to C. L. Schettler of Salt Lake, the marriage to take place Sept. 26.

Judge Armstrong has granted Mary E. Jones a divorce from W. E. Jones on the ground of non-support. They were married in this city on Aug. 18, 1903, just two weeks ago. Plaintiff was granted \$100 as alimony and \$50 attorney's fees.

The Fairview Drug company of Sanpete county, has made an assignment to Manager J. Q. Critchlow of the Utah Credit Men's association, for the benefit of its creditors, and Mr. Critchlow returned from that section this morning. The company's liabilities are placed at \$1,500, and the assets at \$500.

There was one particularly happy railroad man in Salt Lake today—happier than all the rest. The cause of his increased joy was the arrival of a little daughter at his household this morning. The parents of the precious maiden are Mr. and Mrs. George A. Dillie. Mr. Dillie is a passenger agent for the Chicago & Rock Island and connecting roads. The stock of all took an upward flight today.

Henry W. Naisbitt of this city is in receipt of a letter from Mr. and Mrs. G. A. Gibson of Shelton, Ia., thanking him for many kindnesses bestowed while on a visit to this city two weeks ago. Mr. Gibson is an attorney-at-law and frankly states that his visit here has been a most profitable one. He has been here to see the custom, and the "Mormon" people and their religion. They were delighted with Salt Lake and believe it has a bright future.

interfered with by the organization of classes. All new students desiring to enter the High school should report to Prof. Eaton on the days mentioned of this week.

There will be a meeting of the officers and teachers of the Primary association of Granite stake in the stake tabernacle Tuesday, Sept. 5, at 7 p. m. Brother William A. Morton will deliver a lecture. A full attendance is desired.

ROSA M. WHEELER, ROSE A. KELSO, RACHEL G. TAYLOR.

Just drop in and see the new china store, Davies & Co., 30 South Main. The great designs and shapes in chinaware, glassware, cut glass, Japanese goods, Russian bronzes. Everything marked in plain figures.

### NEW LIBRARY BOOKS.

The following 35 books will be added to the public library Tuesday morning, Sept. 5, 1905:

FINE ARTS.  
Annesley—Standard Opera Glass.  
Bate—English Table Glass.  
Benson—Central Italian Painters of the Renaissance.  
Bing—Artistic Japan.  
Bryson—Jung and Jung.  
Brown—Letters and Lettering.  
Cartwright—Painters of Florence.  
Gerard—Wagner, Bayreuth and the Festival Play.  
Guinness—Del Sarto.  
Historical Art of Furniture (reference).  
Hodgeson & Eaton—Royal Academy and Its Members.  
Kendrick—English Embroidery.  
Legge—Ancient Greek Sculptors.  
Mauriac—Auguste Rodin.  
Masters in Art, 5 vols.  
Moore—Lace Book.  
Rossetti—Shadows of Dante.  
Sedgwick—Giotto.  
Swinsburne—Life and Works of Turner.  
Yriarte—Florence.

JUVENILE.  
Baylor—Georgian Bungalow.  
Baylor—Jung and Jung.  
Brown—Lonesome Dell.  
Faraday—Chemical History of a Candle.  
Field—Nannie's Happy Childhood.  
Griffith—Her Wilful Way.  
Irving—Rip Van Winkle.  
Jackson—Another Year With Denise and Ned Toodles.  
Jackson—Caps and Capers.  
Smith—Three Little Marys.

### WEATHER REPORT.

Record at the local office of the weather bureau for the 24 hours ending at 6 a. m. today:  
Barometer reading at 6 a. m., 29.4 inches; temperature at 6 a. m., 63 degrees; maximum, 82; minimum, 60; mean, 71, which is 3 degrees above normal.

Precipitation for the 24 hours ending 9 a. m. today, .06 inch.  
FORECAST TILL 4 P. M. TUESDAY.  
Local forecast for Salt Lake City and vicinity:  
Tonight and Tuesday, generally fair.

TODAY'S TEMPERATURES.  
6 a. m. 63  
8 a. m. 68  
10 a. m. 74  
12 m. 78  
2 p. m. 82  
4 p. m. 80  
6 p. m. 74  
8 p. m. 68  
10 p. m. 63  
12 m. 58

YESTERDAY'S RECORD.  
Highest 82  
Lowest 58

### PERSONALS.

Leo E. Butler has removed to Butte to engage in business.  
Hon. George C. Whitmore of Nephi, is a guest at the Kenyon.  
Dr. C. I. Douglas is home from a six weeks' trip to the coast.  
Eugene J. Milne and bride have returned from their honeymoon.

Judge W. H. Dickson has returned from a trip to the Pacific coast.  
E. A. Kirby, formerly clerk at the Kenyon, has gone to the Pacific coast.  
Lloyd T. King, a prominent Knight of Pythias, is very ill at St. Mark's hospital.

Assistant Postmaster A. P. Kesler has returned from a trip to the Portland land.  
Prof. Anton Pedersen has returned from a pleasant outing with his family at Brighton.

The Misses Annie and Colla Levy have returned from a seven weeks' trip to the coast.  
Secy. Beatty of the state board of health returned home yesterday, from his Idaho outing.

Mr. Ed Rosenbaum leaves Tuesday morning for New York City to be gone five or six weeks.  
J. J. Hillier, formerly at Catalina Island, has been appointed night clerk at the Kenyon hotel.

General Manager J. H. Belfuss of the Walker Bros. company has returned from his New York trip.  
Hon. W. W. Hiter went up to Garland on Saturday. He considers Garland the garden spot of the state.

President J. G. McDonald of the D. A. & M. society returned Saturday from his trip to Portland.  
Miss Jennie Rocca, leaves in the morning on a week's vacation with relatives and friends in Ogden.

Belgian Consul Victor Ponet of Los Angeles, and party of 10 are at the Knutsford en route to the Yellowstone.  
Justice D. N. Straup of the supreme court has returned with his family from an extended trip to the Pacific coast.

J. P. Leary returned to Montpelier Saturday night, to continue his work on the new stock yards of the Short Line.  
J. J. Summerhays, who has been traveling in the interests of Rowe, Morris & Summerhays company, has returned to the coast.

Agency Trader W. C. Forsyth of the Utah reservation, is in the city with his family en route to Kentucky, where they will reside.  
Architect C. M. Neuhausen leaves this evening for Burlington, Ida., to let contracts for the Reed Inn, the new hotel to be erected there.

G. S. Parish, formerly employed by Z. C. M. I. has accepted a position in the Co-op at Bountiful and has moved his family to that place.  
Hon. J. A. Blanchard, justice of the supreme court of New York, leaves tonight for New York City, to be on a visit with his wife, and will go to San Francisco.

President J. M. Ellis of the Idaho

State Christian Endeavor union, and C. Foster Cable, the secretary, will attend the annual C. E. convention of this state to be held at Provo on the 9th inst.

Conductor John F. Berry of the San Pedro has returned from a visit with his family at Alameda, Cal. He says the weather has been so cool there that an evening fire on the hearth was real comfortable.

### TEA.

Do you know Schilling's Best, besides tea?

It's all in the knowledge book.

Your grocer retains your money if you don't like it.

## PEACH DAY

AT  
Brigham City,  
September 7,

Everybody who visits Brigham City on that day will be treated to all the peaches they can eat while there. Go and enjoy a treat. Round trip from Salt Lake City \$1.25. Special train leaves at 8:00 a. m. and returns in the evening in time to catch the street cars.

Better Make Up Your Mind to Go.

DIED.  
LONGMORE.—At 151 L. street, this city, Sept. 3, 1905, from the effects of a fractured hip, Selma Longmore, widow of the late Wm. Longmore, aged 73 years and 8 months.

Funeral services will be held in the Twenty-first ward chapel Tuesday, Sept. 5, at 4 o'clock. Friends are respectfully invited. The remains may be viewed from her late residence, 151 L. street, from 7 to 9 p. m. on day of funeral.

MORGAN.—At 65 Fifth street, this city, Sept. 3, 1905, of old age, Margaret Morgan, wife of John Morgan, born April 6, 1825, near Swansea, South Wales, Europe.

Funeral services will be held Tuesday at 2 p. m. from the Twenty-first ward chapel. Friends are invited to attend and can view the remains at the family residence on day of funeral from 12 to 1:30 p. m.

OR STOLEN, 1 BAY MARE, WEIGHT 97 lbs., small white spots in forehead, 2 white hind feet, blind in left eye. Return to A. T. Smith, 889 South Seventh street. Phone 353 Ind. Liberal reward.

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## NEW RECORDS

For Talking Machines Sent Out ON APPROVAL.

Daynes & Romney Piano Co.

HOW MISERABLE

One is who has a mouth full of bad teeth. Better have them attended to.

Dr. Loy B. Duncan, DENTIST,

Over Walker Bros. Dry Goods Store, S. E.